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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,925	10/24/2003	Michael J. Curtis	119-P-04	1595

7590  
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07/06/2005

EXAMINER

WILLSE, DAVID H

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



**Office Action Summary**

Application No.

10/691,925

Applicant(s)

CURTIS, MICHAEL J.

Examiner

Dave Willse

Art Unit

3738

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on October 24, 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1-26-04</u> . | 6) <input type="checkbox"/> Other: _____  |



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The disclosure is objected to because of the following informalities: On page 9, line 2, "alloy" is misspelled. On page 10, line 9, "complementary" is misspelled. On page 11, line 3, "complementary" is misspelled. Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 9, line 2, "a" should be replaced by --the-- because the "first prosthetic component" is introduced at claim 8, lines 4-5.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schneebeli et al., CH 638 095 A5. The drawing illustrates a first member 2 having at least one hole through which screw 5 extends and a second member 1 comprising a bar 1a for being received within and secured to a channel of the first member 2. Particular attention is directed to page 6, line 12, through page 7, line 6, of the English translation.



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Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneebeli et al., CH 638 095 A5. Screw holes on opposite sides of the first member 2 would have been obvious in order to more securely lock the adjusted position of the components 1 and 2 with respect to one another or in order to provide an alternative location for a single screw 5 so as to accommodate both right-handed and left-handed amputees.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneebeli et al., CH 638 095 A5, in view of Erickson, US 1,302,336. Substituting the length adjustment mechanism of Erickson at either end of the alignment device set forth in Schneebeli et al. would have been obvious in order to simplify adjustment of the length (as explained at page 2, lines 13-33, of Erickson) and circumvent potential stress concentrations transmitted between elements 14 and 15, for example, of Schneebeli et al., with further motivation having been provided by both inventions being directed to angular adjustments (e.g., Erickson: page 2, lines 18-20) and by the Schneebeli et al. device having a swivel joint on one or both ends (English translation: page 7, lines 3-6 and 22-24). Regarding claims 4 and 5, a pyramid and pyramid receiver would have been an obvious variant on the "Unibal" joint (English translation: bottom of page 6) in order to impart modularity with standard prosthetic components, pyramidal adaptors being prevalent in the art.

Claims 1-3, 6-8, and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lee et al., US 5,405,347. Figures 1, 2, and 9 illustrate a first member comprising intermediate component 30 and base 14 and a second member comprising upper component 52 and angular adjustment mechanism 70. Particular attention is directed to externally threaded throat 22 and to



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column 5, lines 3-25. Regarding claim 3, the first member further comprises slotted connection device 26 and end cap 27 (column 2, lines 57-60).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

GB 167,465: drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse whose telephone number is 571-272-4762. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



**Dave Willse**  
**Primary Examiner**  
**Art Unit 3738**